



Commonwealth
of Massachusetts

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Office of Campaign and Political Finance
One Ashburton Place, Room 411
Boston, MA 02108

Advisory Opinion

November 2, 1999
AO-99-17

Alice M. Pierce
17 Volunteer Way
Lexington, MA 02420

Re: Proposed fundraising events in public buildings “occupied for municipal purposes”¹

Dear Ms. Pierce:

This letter is in response to your request for an opinion regarding the use of public buildings for fundraising events by the Lexington Democratic Town Committee (“the Committee”). You have stated that the Committee plans joint fundraisers with two or three local party committees from surrounding towns. The funds raised are used to support the on-going activities of the respective town committees and to make contributions to candidates or ballot question committees. You would like to know if fundraising in a municipal building would be consistent with the campaign finance law in the three situations described in the following questions.

Your questions relate to section 14 of M.G.L. c. 55, the campaign finance law, which provides that “[n]o person shall *in any building or part thereof* occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen.”² The statute “protects all persons who are working in buildings or parts thereof occupied for public purposes as well as anyone who may visit such buildings or parts thereof from being subjected to the pressures of political solicitation.” See AO-91-19.

¹ Although for reference in this opinion we refer to all such buildings as “municipal buildings,” our analysis applies to all buildings and parts thereof which are “occupied for state, county or municipal purposes.” See M.G.L. c. 55, § 14.

² Section 13 refers to such purposes as “political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever . . .”

Questions and Answers

- (1) May a municipal building be used for a political fundraiser if the Committee charges only enough at the door to cover expenses?

Answer: No, because the event would still involve the solicitation and receipt of contributions by the Committee in a municipal building.

- (2) May a municipal building be used if no set fee is required for entry, but voluntary contributions are encouraged in the building?

Answer: No, because encouraging voluntary contributions is “solicitation,” which is prohibited in municipal buildings.

- (3) May a municipal building be used if tickets are sold in advance and no money is collected at the door?

Answer: Although the campaign finance law does not provide a clear answer to your question, we strongly advise against holding a fundraiser in a municipal building, even if money is not collected in the building or at the door.

Discussion

With respect to your first question, the office has consistently advised that *all* funds received to pay the expenses associated with an event are “contributions,” even if there is no surplus after paying expenses. See AO-92-28. The committee must report all receipts as contributions and must keep records reflecting the source of all contributions, regardless of amount.

Regarding your second question, to “solicit” means to “petition, urge, or approach with a request or plea.” See Webster’s New Collegiate Dictionary. To “encourage” the making of a contribution is the same as to solicit contributions, an activity that is prohibited in municipal buildings.

Your third question raises a more difficult issue: whether the prohibitions of section 14 may be avoided by selling tickets to an event in advance and not accepting any contributions at the door.

Section 14 was enacted in the late 19th century as part of a civil service reform movement which saw similar statutes passed in other jurisdictions, including the federal government. See 18 U.S.C. §607. In Anderson v. City of Boston, 376 Mass. 178 (1978), appeal dismissed, 439 U.S. 1069 (1979), the Supreme Judicial Court considered the purpose of the statute. The court stated that section 14 and related parts of the statute demonstrate “a general legislative intent to keep political fund raising and disbursing out of the hands of nonelective public employees and out of city and town halls.” 376 Mass. at 186-187. The court also stated that “the Commonwealth has a substantial, compelling interest in assuring the fairness of elections and the appearance of fairness in the electoral process.” 376 Mass. at 193.

Consistent with Anderson, this office has given “cautious” advice designed to ensure that an individual’s actions comply with the campaign finance law. Where the meaning of sections 13 and 14, or their application to specific facts, is not clear, we have interpreted these provisions to ensure compliance with the campaign finance law. See AO-92-28 (stating that section 14 applies not only to buildings occupied for state, county or municipal purposes, but also to areas that are “integral to the building or the work of the building.”)

The campaign finance law does not define when the “solicitation” and “receipt”³ associated with a fundraising event take place and there are no Massachusetts court opinions on point. We recognize that a literal reading of these terms could lead to the conclusion that there is no violation of section 14 if solicitation and receipt take place through the mail or otherwise physically outside of a public building.

Solicitation and receipt could also be defined, however, to be part of a *process* that includes the event itself. Fundraising events normally involve some element of solicitation and receipt at the event. In addition, a committee’s right to keep funds received prior to an event may to some extent depend upon the event actually taking place.

Even if we were to read section 14 to permit a political fundraiser in a public building if no money is collected at the door, achieving compliance with the statute would be very difficult. If a committee were to hold such an event, it would need to be sure that absolutely no funds were solicited or received at the event. Since one of the objectives of section 14 is to avoid the pressuring of persons working in or seeking access to government buildings, the event would need to be held when the building is closed.

Finally, having a fundraising event in a building occupied for municipal purposes, even if funds are not physically solicited or received in the building, would raise an issue regarding the appearance of improper governmental involvement in the electoral process. For example, if town hall were used for a political fundraiser (even if money does not change hands during the event) such use would appear to be inconsistent with the spirit, if not the letter, of section 14.

For all of the above reasons, we would advise against candidates and political committees holding political fundraising events “in any building or part thereof occupied for state, county or municipal purposes.”

³ Although the statute prohibits solicitation, receipt or demand, our focus is on solicitation and receipt because these are the activities normally associated with a political fundraising event.

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This opinion is issued within the context of the Massachusetts campaign finance law and is provided solely on the basis of representations in your letter. Please contact us if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in dark ink and is positioned to the left of a vertical line.

Michael J. Sullivan
Director